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TTAB

October 3, 2005

Box TTAB Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Application of: ACI INTERNATIONAL CORPORATION
Serial No.: 78/529,121
Mark: SPRING Z
International Class: 25
Filed: December 8, 2004
Published: September 6, 2005

Z-TECH INC. (Opposer) v. ACI INTERNATIONAL CORPORATION
(Applicant)

Dear Sir:

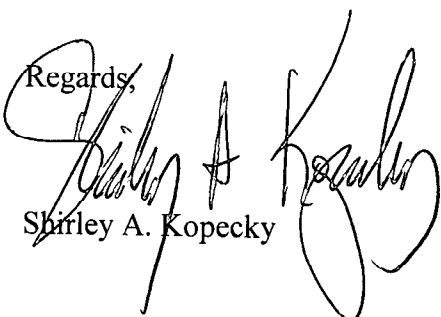
Enclosed for filing in conjunction with the above-captioned trademark matter is the following document:

NOTICE OF OPPOSITION (2 Copies).

Also enclosed is a Credit Card Authorization Form for \$300.00, which represents the fee for filing a Notice of Opposition in one Class. In the event that additional fees are due, the Commissioner is hereby authorized to charge any deficiencies to Deposit Account No. 50-3422.

Please also return the enclosed, self-addressed, postage-prepaid postcard, which acknowledges your receipt of this filing.

Regards,


Shirley A. Kopecky

Enclosures



10-03-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:
ACI INTERNATIONAL CORPORATION
Serial No.: 78/529,121
Filed: December 8, 2004

Mark: SPRING Z
International Class: 25
U.S. Class: 22, 39
Published: September 6, 2005

Z-TECH INC.,
Opposer

v.

ACI INTERNATIONAL CORPORATION,
Applicant.

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Opposition No. _____

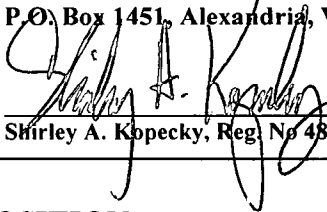
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CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Number: ED 537222769

Date of Deposit: October 3, 2005

I hereby certify that this paper and/or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to
**Commissioner for Trademarks, Box TTAB Fee,
P.O. Box 1451, Alexandria, VA 22313-1451**


Shirley A. Kopecky, Reg. No. 48,460


Dated October 3, 2005

NOTICE OF OPPOSITION

Z-Tech, Inc., a New Mexico corporation located at 4th Street NW, Albuquerque, New Mexico 87107, and having additional corporate offices located at 501 Eubank Blvd, S.E., Albuquerque, New Mexico 87123, hereby files this Notice of Opposition, believing that it will be damaged by registration of the SPRING Z mark shown in application Serial No. 78/529,121, and hereby opposes registration of that trademark. As grounds for opposition, the following is alleged:


1. Application No. 78/529,121 was filed on December 8, 2004 by ACI International Corporation (hereinafter "Applicant"), a California corporation listing its address as 844 Moraga

Drive, Los Angeles, California 90049, and is represented by Louis J. Bovasso, as per the trademark database (Tess).

2. Application No. 78/529,121 is directed to the mark SPRING Z for use in connection with "footwear" goods in Class 25, and was published for opposition on September 6, 2005. Thus, this Opposition is timely filed. Application No. 78/529,121 alleges that Applicant *intends to use* that mark in commerce in connection with the good listed in the application, which was filed under the provisions of §1(b) of the Act (15 U.S.C. 1051(b)).


3. Z-Tech, Inc. (hereinafter "Opposer") is the owner of several registered United States and foreign trademarks for the mark Z-COIL and a related design mark, for the same class and description of goods, namely footwear, for which Applicant seeks registration. Opposer is also the owner of two pending U.S. applications and several foreign trademark applications for one or both of the Z-COIL marks.

4. More specifically, Opposer is the owner of the U.S. registered word mark Z-COIL (U.S. Federal Trademark Registration No. 2504011, granted November 6, 2001), for footwear, shirts, and caps in Class 25. Opposer is also the owner of the U.S. registered Z-COIL design mark (U.S. Federal Trademark Registration No. 2504010, granted November 6, 2001)

 for footwear, shirts, and caps in Class 25. Opposer has been using its marks in commerce throughout the United States since at least July 2000.

5. Opposer is also the owner of the domain name www.zcoil.com, which was created on June 21, 1999. Opposer maintains a website at www.zcoil.com which is used to market its footwear that is sold under the Z-COIL® marks.

6. Opposer is also the owner of the mark Z-COIL and U.S. Application Serial No. 76/626,083, for registration of the Z-COIL mark for insoles for footwear and shoes in Class 25.

7. Additionally Opposer is the owner of the CTM registered figurative Z-COIL mark  (European Community Registration No. 002088417), dated May 29, 2002, for footwear, shirts and caps in Class 25, in the several member countries.


8. Opposer is also the owner of the mark Z-COIL and European Community (CTM) Application No. 4,126,041, filed on November 17, 2004, for registration of the word mark Z-COIL for clothing, footwear and headgear; shoes, shirts, caps and hats in Class 25, in the twenty-five member countries.

9. Opposer also is the owner of Mexican Registration No. 871,239 covering the word mark Z-COIL for footwear, shoes, shirts, caps and hats in Class 25. Opposer is also the owner of Mexican Registration No. 872,409 covering a related Z-COIL design mark for footwear, shoes, shirts, caps and hats in Class 25.

10. Further, Opposer is the owner of the word mark Z-COIL and Canadian Trademark Application No. 1,238,308, filed on November 23, 2004, for registration of the mark Z-COIL for footwear, shoes, shirts, caps and hats. Opposer is also the owner of the related Z-COIL design mark and Canadian Trademark Application No. 1,238,309, filed on November 23, 2004, for registration of the design mark for footwear, shoes, shirts, caps and hats.

11. Opposer also has at least 180 distributors that are licensed to market and sell such trademarked goods at retail stores throughout the United States of America, and has used the mark in commerce between the United States and one or more foreign countries. Opposer also has distributors that market and sell its trademarked goods at retail stores in Puerto Rico, Canada, and Mexico. By virtue of Opposer's efforts and the expenditure of considerable sums for promotional activities in using such Z-COIL marks and by virtue of the excellence of its products, Opposer has gained a valuable reputation. Opposer has also developed significant valuable goodwill with respect to the marks covered by the foregoing registrations and one of more of such applications. Moreover, there are few other registered marks with the "Z" and "COIL" formatives, thus making these strong marks.

12. Opposer through its registrations, applications and, as applicable, the use of its marks, has obtained valid rights under the laws of the United States and various States by its uses of all or certain ones of the foregoing opposing marks continuously from dates prior to Applicant's dates of first use, if any, and the filing date of Applicant's application. Opposer has also obtained valid rights in additional countries prior to Applicant's dates of first use, if any, and the filing date of Applicant's application. As such, Opposer has priority over Applicant and has superior rights to such mark.

13. Applicant's design mark  includes the design element of a spring – that is coiled – which is also engendered in the "COIL" formative of Opposer's marks. The mark SPRING Z that is proposed for registration by Applicant includes both the "SPRING" formative that is synonymous with the design element and the "COIL" formative of Opposer's marks and further includes a "Z" formative, and therefore such mark raises the substantially

identical meaning and image as engendered by Opposer's marks. As such, Applicant's mark nearly resembles Opposer's marks so as to be likely confused therewith, and lead to mistake and/or deception when used on or in connection with Applicant's goods. Applicant's mark would also cause confusion, mistake, and lead to deception as to the origin of Opposer's footwear goods which bear Opposer's marks.

14. Finally, Applicant's mark also so resembles Opposer's marks as to be likely, when applied to the goods set forth in Applicant's application – which are the same class and type of goods that are sold by Opposer, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. §1052(d) (Section 2(d) of the Trademark Act).

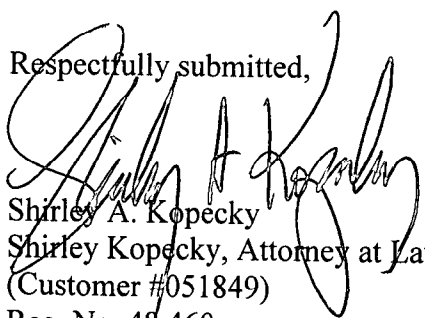
15. If the Applicant is granted the registration of the SPRING Z mark which is being hereby opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of such mark. Moreover, such registration would be a source of damage and injury to the Opposer.

WHEREFORE, Opposer prays that this opposition be sustained, and that registration of Application Serial No. 78/529,121 and the mark sought for the goods specified therein in International Class 25, be denied and refused.

A duplicate copy of this Notice of Opposition and the fee required by 37 C.F.R. §2.6(a)(16) are enclosed herewith.

October 3, 2005
Date

Respectfully submitted,


Shirley A. Kopecky
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Certificate of Mailing under 37 CFR 1.8

I hereby certify that the following correspondence:

Return Postal Card; Credit Card Payment Form [\$300.00 for Notice of Opposition in 1 Class]; Cover Letter (1 Page); and Notice of Opposition (2 Copies, 4 Pages each)

is being deposited with the United States Postal Service with sufficient postage as Express Mail "Post Office to Addressee" [EXPRESS MAIL Mailing Label Number ED 537222769 in an envelope addressed to:

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Alexandria, VA 22313-1451**

on

October 3, 2005
Date


Signature

Shirley A. Kopecky

Typed or printed name of person signing Certificate

48,460

Registration Number

713-864-8660

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.